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10/063,187	03/28/2002	Mark Jeffries	55954	4765

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EXAMINER

JACKSON, ANDRE L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/063,187

Applicant(s)

JEFFRIES, MARK

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25, 29, 34, 36, 37 and 42 is/are rejected.
- 7) ☒ Claim(s) 26-28, 30-33, 35 and 38-41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Drawings

The drawings were received on July 23, 2003. These drawings remain objected to. New corrected drawings are required in this application because applicant may not request that any objection to the drawing(s) be held in abeyance. Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular claims 1, 2, 15, 16, 22, 36, 37 and 42 recite "a substrate/faceplate member" throughout the claims. Here, it is unclear to one having ordinary skill in the art as to whether there is one or more substrate/faceplate member(s).

As for applicant's dependent claims stated above, the recitation "additionally comprises/comprising a substrate/faceplate member" is unclear.

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If applicant's independent or base claims have already established a substrate/faceplate member, it is unclear whether the Examiner is suppose to infer an additional substrate/faceplate member by the inclusion of an "additional" substrate/faceplate. Or is applicant merely attempting to positively claim the substrate/faceplate member in the subsequent dependent claims but not in the independent claims. The latter interpretation is the one that is assumed by the Examiner and is treated as such in this Action. Appropriate explanation and correction is required.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 11, 13-19, 21-25, 29, 34, 36, 37 and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 6,412,425 to Chen. Chen discloses a foldable device for vehicles comprising a unitary D-shaped support member including an integral curved leg (3) and a L-shaped base (31) forming a ledge; at least one tab (4) integrally connected to the D-shaped support member having a rounded outer edge portion (Fig. 1) and angling outward; additionally comprising a substrate or faceplate member (1), the base of the D-shaped support member is rotatably coupled to the substrate/faceplate member, wherein the at least one tab is connected to the D-shaped support member such that when pressure is applied thereto (Fig. 8), the D-shaped support member moves outward with respect to the substrate/faceplate member as seen in Fig. 1.

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As to claims 3, 4, 7, 13, 17, 18, 21, 23 and 24, Chen shows a foot portion wherein the base includes blocks or tubular members (7) integrally attached to the base, the block or tubular members includes an orifice which passes through the block/tubular members and the foot portion includes a pair of opposed protrusions (9), which receive and hold a pin member (8), which passes through the block/tubular members to pivotally attach the D-shaped support member to the foot portion and rotatably to the substrate/faceplate member as seen in Fig 1A. Further, the foot portion rotates relative to the substrate/faceplate member to actuate a latch member (11).

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen. Chen shows in Fig. 1A, the base of the D-shaped support member being formed in an L-shape but does not disclose the base in a J-shape or rectangular design as claimed. Nor does Chen disclose that the curved leg portion is hingedly connected to the base but rather formed integral therewith. It is well known and old within the art that a change in shape of a prior art device element is a matter of design choice within the skill of the art. Just as equally, it is well known within the art and has been held that constructing a formerly integral structure into various elements involves only routine skill in the art, encompassing two or more elements

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hingedly connected together. Furthermore applicant has not stated a J or rectangular shape or separate components hinged together solves any relevant problem or is for a particular purpose that brings about an unexpected change or result. Therefore, the foldable device of Chen operates equally as well.

#### **Allowable Subject Matter**

Claims 26-28, 30-33, 35 and 38-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Response to Applicant's Arguments**

Applicant's arguments filed in Amendment A on July 23, 2003 have been fully considered but they are not persuasive. In response to applicant's remarks that the prior art relied upon (Gohlke, Hansen) does not disclose or suggest all of the limitations as recited in applicant's claims, described on pages 11-14 of the above amendment and to the changes/amendments to applicant's claims, #6,412,425 to Chen has been cited which is used to meet the limitations of applicant's claims. Accordingly, claims 1-25, 29, 34, 36, 37 and 42 are rejected. Claims 26-28, 30-33, 35 and 38-41 are objected to.

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### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (703) 308-3179. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1018.

  
Anthony Knight  
Supervisory Patent Examiner  
Group 3600

André L. Jackson  
Patent Examiner  
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